

Frank Agostino, Esq.
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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	20 Civ. 3581
v.)	
)	
SARAH E. GLAISTER,)	
)	
Defendant.)	
)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	20 Civ. 3583
v.)	
)	ANSWER ON BEHALF OF
JOHN K. GLAISTER,)	DEFENDANT SARAH E. GLAISTER
)	
Defendant.)	
)	

The defendant, Sarah E. Glaister ("Defendant"), by and through her undersigned counsel, by way of Answer to Plaintiff's Complaint to collect civil penalties, hereby states:

INTRODUCTION

1. Denies for lack of knowledge.
2. Admits.
3. Denies for lack of knowledge.
4. Denies for lack of knowledge.

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5. Denies for lack of knowledge.

6. Denies for lack of knowledge.

JURISDICTION AND VENUE

7. Denies for lack of knowledge.

8. Admits.

9. Admits.

REGULATORY BACKGROUND

10. Denies for lack of knowledge.

11. Denies for lack of knowledge.

12. Denies for lack of knowledge.

13. Denies for lack of knowledge.

14. Denies for lack of knowledge.

FACTUAL BACKGROUND

15. Admits.

16. Admits.

17. Denies.

18. Admits.

A. PKB Bank

19. Admits.

20. Admits.

21. Denies for lack of knowledge.

22. Denies for lack of knowledge.

23. Denies for lack of knowledge.

24. Denies for lack of knowledge.

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25. Denies.

26. Denies.

27. Denies for lack of knowledge.

28. Denies for lack of knowledge.

29. Denies.

i. Calendar Year 2009

30. Denies for lack of knowledge.

31. Denies for lack of knowledge.

32. Denies.

33. Denies.

ii. Calendar Year 2010

34. Denies for lack of knowledge.

35. Denies for lack of knowledge.

36. Denies.

37. Denies.

iii. Calendar Year 2011

38. Denies for lack of knowledge.

39. Denies for lack of knowledge.

40. Denies.

41. Denies.

iv. Calendar Year 2012

42. Denies for lack of knowledge.

43. Denies for lack of knowledge.

44. Denies.

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45. Denies.

v. Calendar Year 2013

46. Denies for lack of knowledge.

47. Denies for lack of knowledge.

48. Denies.

49. Denies.

vi. Calendar Year 2014

50. Denies for lack of knowledge.

51. Denies for lack of knowledge.

52. Denies.

53. Denies.

B. LCL Bank

54. Admits.

55. Denies.

56. Denies.

57. Admits.

58. Denies.

59. Admits.

60. Denies.

61. Denies.

i. Calendar Year 2009

62. Denies for lack of knowledge.

63. Denies for lack of knowledge.

64. Denies.

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ii. Calendar Year 2010

65. Denies for lack of knowledge.

66. Denies for lack of knowledge.

67. Denies.

68. Denies.

iii. Calendar Year 2011

69. Denies for lack of knowledge.

70. Denies for lack of knowledge.

71. Denies.

72. Denies.

iv. Calendar Year 2012

73. Denies for lack of knowledge.

74. Denies for lack of knowledge.

75. Denies for lack of knowledge.

76. Denies.

77. Denies.

v. Calendar Year 2013

78. Denies for lack of knowledge.

79. Denies for lack of knowledge.

80. Denies.

81. Denies.

C. Tax Returns and FBARs

82. Denies.

83. Admits.

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84. Denies.

85. Denies.

86. Admits.

D. Examination and Penalties

87. Denies for lack of knowledge.

88. Denies.

89. Denies for lack of knowledge.

90. Denies for lack of knowledge.

91. Admits.

92. Denies for lack of knowledge.

DEFENDANT'S AFFIRMATIVE DEFENSES FOR 2009

1. Defendant's FBAR filing for 2009 was not untimely.

2. Equitable estoppel precludes Plaintiff's claim that Defendant's filing was untimely.

3. Defendant's failure to file, under 31 U.S.C. § 5321, was not willful.

4. Defendant substantially complied with her filing obligations under 31 U.S.C. § 5314.

5. Reasonable cause excuses Defendant's alleged non-compliance with 31 U.S.C. § 5314.

6. If a penalty is appropriate, it cannot exceed \$10,000.00 because Defendant's failure was non-willful.

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7. If a penalty is appropriate, and is determined to be willful, then it cannot exceed \$100,000.00 pursuant to 31 C.F.R. § 1010.820(g)(2).

8. Plaintiff's penalty is excessive and violates the Excessive Fines Clause of the United States Constitution.

9. The statute of limitations to assess the penalty expired prior to assessment.

DEFENDANT'S AFFIRMATIVE DEFENSES FOR 2010

1. Defendant's FBAR filing for 2010 was not untimely.

2. Equitable estoppel precludes Plaintiff's claim that Defendant's filing was untimely.

3. Defendant's failure to file, under 31 U.S.C. § 5321, was not willful.

4. Defendant substantially complied with her filing obligations under 31 U.S.C. § 5314.

5. Reasonable cause excuses Defendant's alleged non-compliance with 31 U.S.C. § 5314.

6. If a penalty is appropriate, it cannot exceed \$10,000.00 because Defendant's failure was non-willful.

7. If a penalty is appropriate, and is determined to be willful, then it cannot exceed \$100,000.00 pursuant to 31 C.F.R. § 1010.820(g)(2).

8. Plaintiff's penalty is excessive and violates the Excessive Fines Clause of the United States Constitution.

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9. The statute of limitations to assess the penalty expired prior to assessment.

DEFENDANT'S AFFIRMATIVE DEFENSES FOR 2011

1. Defendant's FBAR filing for 2011 was not untimely.

2. Equitable estoppel precludes Plaintiff's claim that Defendant's filing was untimely.

3. Defendant's failure to file, under 31 U.S.C. § 5321, was not willful.

4. Defendant substantially complied with her filing obligations under 31 U.S.C. § 5314.

5. Reasonable cause excuses Defendant's alleged non-compliance with 31 U.S.C. § 5314.

6. If a penalty is appropriate, it cannot exceed \$10,000.00 because Defendant's failure was non-willful.

7. If a penalty is appropriate, and is determined to be willful, then it cannot exceed \$100,000.00 pursuant to 31 C.F.R. § 1010.820(g)(2).

8. Plaintiff's penalty is excessive and violates the Excessive Fines Clause of the United States Constitution.

DEFENDANT'S AFFIRMATIVE DEFENSES FOR 2012

1. Defendant's FBAR filing for 2012 was not untimely.

2. Equitable estoppel precludes Plaintiff's claim that Defendant's filing was untimely.

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3. Defendant's failure to file, under 31 U.S.C. § 5321, was not willful.

4. Defendant substantially complied with her filing obligations under 31 U.S.C. § 5314.

5. Reasonable cause excuses Defendant's alleged non-compliance with 31 U.S.C. § 5314.

6. If a penalty is appropriate, it cannot exceed \$10,000.00 because Defendant's failure was non-willful.

7. If a penalty is appropriate, and is determined to be willful, then it cannot exceed \$100,000.00 pursuant to 31 C.F.R. § 1010.820(g)(2).

8. Plaintiff's penalty is excessive and violates the Excessive Fines Clause of the United States Constitution.

DEFENDANT'S AFFIRMATIVE DEFENSES FOR 2013

1. Defendant's FBAR filing for 2013 was not untimely.

2. Equitable estoppel precludes Plaintiff's claim that Defendant's filing was untimely.

3. Defendant's failure to file, under 31 U.S.C. § 5321, was not willful.

4. Defendant substantially complied with her filing obligations under 31 U.S.C. § 5314.

5. Reasonable cause excuses Defendant's alleged non-compliance with 31 U.S.C. § 5314.

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6. If a penalty is appropriate, it cannot exceed \$10,000.00 because Defendant's failure was non-willful.

7. If a penalty is appropriate, and is determined to be willful, then it cannot exceed \$100,000.00 pursuant to 31 C.F.R. § 1010.820(g)(2).

8. Plaintiff's penalty is excessive and violates the Excessive Fines Clause of the United States Constitution.

DEFENDANT'S AFFIRMATIVE DEFENSES FOR 2014

1. Defendant's FBAR filing for 2014 was not untimely.

2. Equitable estoppel precludes Plaintiff's claim that Defendant's filing was untimely.

3. Defendant's failure to file, under 31 U.S.C. § 5321, was not willful.

4. Defendant substantially complied with her filing obligations under 31 U.S.C. § 5314.

5. Reasonable cause excuses Defendant's alleged non-compliance with 31 U.S.C. § 5314.

6. If a penalty is appropriate, it cannot exceed \$10,000.00 because Defendant's failure was non-willful.

7. If a penalty is appropriate, and is determined to be willful, then it cannot exceed \$100,000.00 pursuant to 31 C.F.R. § 1010.820(g)(2).


8. Plaintiff's penalty is excessive and violates the Excessive Fines Clause of the United States Constitution.

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WHEREFORE, Defendant respectfully requests that this Court dismiss Plaintiff's complaint with prejudice, award Defendant attorney's fees and costs, and for any other relief this Court deems just and proper.

Dated: Hackensack, New Jersey
July 30, 2020

AGOSTINO & ASSOCIATES, A
Professional Corporation

By: 
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Attorneys for Defendant
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CERTIFICATE OF SERVICE

It is hereby certified that on July 30, 2020, I electronically filed the foregoing Answer for Defendant with the Clerk of the Court for the United States District Court, Southern District of New York using the CM/ECF system. Counsel for the Appellee is a registered CM/ECF user and will be served by the CM/ECF system.

I further certify that I have also sent courtesy copies of the Answer, via Certified Mail, Return Receipt Requested and Federal Express, to Plaintiff's counsel and Judge Roman's Chambers, respectively located at:

United States of America
United States Attorney's Office, SDNY
Attn: AUSA Samuel Dolinger
86 Chambers Street, 3rd Floor
New York, New York 10007

Honorable Nelson S. Roman
United States Courthouse
300 Quarropas Street
White Plains, NY 10601
Courtroom 218

Date: July 30, 2020



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